

AMENDING SECTION 25 OF THE TENNESSEE VALLEY
AUTHORITY ACT OF 1933, AS AMENDED

AUGUST 2, 1951.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. LARCADE, from the Committee on Public Works, submitted the
following

REPORT

[To accompany H. R. 3209]

The Committee on Public Works, to whom was referred the bill (H. R. 3209) amending section 25 of the Tennessee Valley Authority Act of 1933, as amended, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

H. R. 3209 would amend section 25 of the Tennessee Valley Authority Act of 1933 (Public Law 17, approved May 18, 1933), as amended, to provide an increase in the per diem and subsistence allowance of commissioners appointed by the United States district court to handle condemnation proceedings for acquisition of lands necessary to carry out the provisions of that act.

The bill increases the compensation of the commissioners from a maximum of \$15 to a maximum of \$30 per day and would increase their subsistence allowance from \$5 to a maximum of \$10 a day. It also provides for the actual transportation expenses of the commissioners, including allowance for privately owned automobiles at a rate not to exceed 7 cents per mile.

The compensation provided in the act of 1933 has become so inadequate that it is difficult for the courts in some districts to obtain competent commissioners for such service, and your committee believes that in order to secure the services of experts who are qualified for this service it is essential that the bill be enacted. As best as can be ascertained the compensation established is commensurate with the pay schedules for similar work granted in Federal courts throughout the country.

The committee voted to approve this legislation and recommends that the House do pass H. R. 3209.

CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in existing law made by this bill are shown as follows (existing law in which no change is made is printed in roman; omitted matter is printed within black brackets; the new matter is printed in italics):

The fourth sentence in section 25 of the Tennessee Valley Authority Act of 1933, as amended:

Such commissioners shall receive a per diem of not to exceed ~~[\$15]~~ \$30 for their services, together with an additional amount of ~~[\$5]~~ \$10 per day for subsistence for time actually spent in performing their duties as commissioners, *and reimbursement of actual transportation expenses including an allowance for use of privately owned automobiles at a rate not to exceed 7 cents per mile.*

The following is the report of the Tennessee Valley Authority on this measure:

TENNESSEE VALLEY AUTHORITY,
Washington, August 1, 1951.

Subject: H. R. 3209, amending section 25 of the Tennessee Valley Authority Act of 1933, as amended.

Hon. CHARLES A. BUCKLEY,
Chairman, Committee on Public Works,
House Office Building, Washington, D. C.

DEAR CONGRESSMAN BUCKLEY: This is in response to the telephone request of Mr. McGann that we furnish the Committee on Public Works with our views as to the merits of the above bill and the propriety of its passage. We believe that the bill should be enacted.

Section 25 of the Tennessee Valley Authority Act prescribed the procedure in condemnation proceedings instituted for the acquisition of lands, easements, and rights-of-way required to carry out the provisions of the TVA Act. It provides that the value of the property sought to be condemned shall be determined by three commissioners. The commissioners are appointed by the court and receive "a per diem of not to exceed \$15 for their services, together with an additional amount of \$5 per day for subsistence for time actually spent in performing their duties as commissioners."

The above bill would increase the compensation of the commissioners from a maximum of \$15 to a maximum of \$30 a day and would increase their subsistence allowance from \$5 to a maximum of \$10 a day. It would also provide expressly for the payment of the actual transportation expenses of commissioners, including allowance for privately owned automobiles at a rate not to exceed 7 cents per mile. Within the maxima permitted by the bill, the district courts would be free to adjust compensation, subsistence allowances, and allowances for use of privately owned automobiles to accord with the circumstances in particular localities and cases.

We believe that enactment of the bill is necessary to insure the continued appointment of well-qualified commissioners in TVA condemnation cases. The compensation provided in section 25 of the TVA Act was adequate under the economic conditions which existed when the act was passed in 1933, but it is now so inadequate that it has become difficult for the courts in some districts to obtain or retain well-qualified commissioners.

In order to retain the benefit of their experience and to obtain a measure of uniformity in condemnation awards, it has been the custom of the courts in the various districts either to appoint a single commission which tries all cases in the district, or a single commission in each division of the district which tries all cases within that division. The three commissioners conduct a hearing on the question of just compensation, which may last from a few hours to several days depending upon the complexity of the case, inspect the land, and make an award. In districts where the condemnation program is relatively heavy, particularly in the eastern and middle districts of Tennessee, they are called upon to devote considerable time to their duties, and service at the compensation now provided for by statute thus imposes a substantial sacrifice.

In over 90 percent of TVA condemnation cases the awards of the commissions have been accepted by the parties, and in more than half of the appealed cases the commission awards have been affirmed by the courts without change. The commission is, therefore, the tribunal which finally determines the issue of just compensation in most cases. In recognition of the importance of the commission's functions, the courts have uniformly selected an experienced practicing lawyer as chairman of the commission. The other two members of the commission have almost invariably been experienced real-estate men or substantial farmers who have had extensive dealings in real estate.

The increase in cost to the Government, which would result from raising the commissioners' fees as provided in the above bill, would not be great. In the fiscal year ending June 30, 1950, commissioners in TVA condemnation cases were paid fees of \$15 per day for a total of 123 days and subsistence of \$5 per day for a total of 64 days, making a total payment of \$2,165 for fees and subsistence. The difference between the 64 days' subsistence and the 123 days' commissioners' fees reflects the fact that subsistence is paid only when it is necessary for the commissioners to try cases at some place other than their residence. Had the bill been in effect at the beginning of the last fiscal year, therefore, the increased cost for fees and subsistence during the fiscal year would have been \$2,165 if the courts had allowed, in all cases, the maximum \$30 fee and the maximum \$10 subsistence permissible under the bill. We believe that this increase in cost is fully justified by the importance of assuring the continuance of commissioners of the same high quality as have served in TVA cases in the past.

This report has been submitted to the Bureau of the Budget, which advises that these views accord with the President's program.

Sincerely yours,

GORDON R. CLAPP,
Chairman of the Board.

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